

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
THE INSURANCE COMPANY OF THE STATE :  
OF PENNSYLVANIA, :

Plaintiff, :

vs. :

ARGONAUT INSURANCE COMPANY, :

Defendant. :  
-----X

1:12-cv-06494-DLC

**DECLARATION OF ANDREW S. AMER, ESQ. IN FURTHER SUPPORT OF  
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

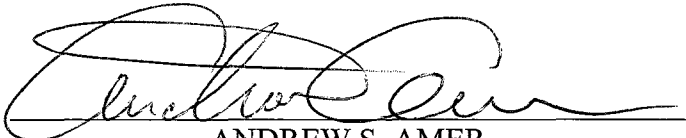
I, Andrew S. Amer, Esq., submit this declaration pursuant to 28 U.S.C. § 1746  
and declare as follows:

1. I am a member of the law firm of Simpson Thacher & Bartlett LLP,  
attorneys for Plaintiff. I respectfully submit this declaration in further support of Plaintiff's  
Motion for Partial Summary Judgment. I am familiar with the matters set forth in this  
declaration based on my personal knowledge and/or a review of the files in the possession of my  
firm.

2. Attached as Exhibit 1 is a true and correct copy of excerpts from the  
transcript of the deposition of Patrick DiCaprio taken in this action on April 29, 2013.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 14<sup>th</sup> day of June, 2013.

  
ANDREW S. AMER

# EXHIBIT 1

PATRICK DiCAPRIO - CONFIDENTIAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF PENNSYLVANIA

-----X  
THE INSURANCE COMPANY OF THE STATE OF  
PENNSYLVANIA,

Plaintiff,

v.

ARGONAUT INSURANCE COMPANY,

Defendant.  
-----X

CONFIDENTIAL

DEPOSITION OF PATRICK DiCAPRIO

30(b)(6)

New York, New York

Monday, April 29, 2013

REPORTED BY: BOBBIE ZELTMAN  
Professional Stenographic Reporter

Job Number: 60869

1 PATRICK DiCAPRIO - CONFIDENTIAL

2 Q Do you know if she had any  
3 involvement with the Kaiser Cement claim?

4 A I don't recall.

5 Q Do you recall any discussions with  
6 her about the claim?

7 A I never had a discussion with her  
8 about the claim.

9 Q Do you know who Maria Perides is?  
10 P-E-R-I-D-E-S.

11 A No.

12 Q You mentioned earlier Ron Ryan.  
13 Is Mr. Ryan still with AIG?

14 A No.

15 Q When did he leave AIG?

16 A He passed away last year. Or maybe  
17 this year. I don't remember when.

18 Q And during the time when you were  
19 handling the Kaiser Cement claim, what was  
20 Mr. Ryan's position with the company?

21 A I don't remember what his title  
22 was.

23 Q What was his job, as you understood  
24 it?

25 A He was the person that -- he was

1 PATRICK DiCAPRIO - CONFIDENTIAL

2 above the Shari Belitz/Bill Johnson people,  
3 so he would be involved with any of the  
4 accounts that were going to be reported to  
5 Jeff Johnson, so he was kind of like an  
6 intermediary or liaison. He would be  
7 involved with giving advice or handling or  
8 anything like that.

9 So he was Jeff Johnson's right-hand  
10 man, so to speak.

11 Q And you testified before that  
12 Mr. Ryan was the person who negotiated the  
13 settlement with Kaiser; is that right?

14 A He negotiated one of them, yes.

15 Q Which one?

16 A He attended a mediation in 2009, so  
17 there was a settlement of the primary  
18 coverage before my involvement.

19 Q And so that was the settlement you  
20 testified about earlier from 1993?

21 A Correct.

22 Q Other than his involvement with the  
23 negotiations in -- it was in 2009; is that  
24 right?

25 A Yes.

1 PATRICK DiCAPRIO - CONFIDENTIAL

2 Q I'm sorry. My question was whether  
3 you have knowledge whether there was  
4 discussion by anyone at the mediation of  
5 contribution by that ISCOP Policy 411 --

6 A I don't know.

7 Q Who would know?

8 A Anyone who was there other than Ron  
9 Ryan.

10 Q And did you do anything in advance  
11 of today -- well, what did you do in advance  
12 of today to prepare to testify about the  
13 negotiations of settlement?

14 A I reviewed all the documents that  
15 were in the file and spoke to counsel.

16 Q And were there documents in the  
17 file that related to the settlement  
18 negotiations?

19 A Sure.

20 Q What documents do you recall in the  
21 file relating to the negotiations?

22 A The settlement agreements related  
23 to negotiations, the policies related to the  
24 negotiations, the individual claimant  
25 documents that we had related to the

1 PATRICK DiCAPRIO - CONFIDENTIAL

2 negotiations. I mean, everything relates to  
3 the negotiations. The past payment  
4 histories.

5 Q Did you review anything that  
6 reflected who took what position at the  
7 negotiations?

8 A I don't believe so. There was no  
9 notes or memos made of what was discussed at  
10 the mediation, if that's what you are trying  
11 to ask. There was nothing like that.

12 Q And do you know whether Mr. Ryan  
13 made any notes?

14 A He did not. That's what I'm  
15 saying. He did not, that I saw.

16 Q That's my question. You did not  
17 see in the files that you reviewed any notes  
18 from Mr. Ryan; is that right?

19 A That's correct.

20 Q Do you know whether he made any  
21 notes in the course of his negotiations?

22 A I don't believe that he did.

23 Q And why do you believe that he did  
24 not?

25 A I'm just guessing that I would have

1           PATRICK DiCAPRIO - CONFIDENTIAL

2       seen them or that they would have been in  
3       the files somewhere. I mean, he wouldn't  
4       have thrown them out if he made any.

5           Q       Do you recall or did you discuss  
6       with him after the negotiations in 2009  
7       whether he had any notes?

8           A       I don't recall.

9           Q       Did you discuss with him the  
10      negotiations?

11          A       Yes.

12                 MR. KEELY: Why don't we break.

13                         (A luncheon recess was  
14      taken at 12:17 p.m. through  
15      1:02 p.m.)

16                 A F T E R N O O N   S E S S I O N

17                         PATRICK DiCAPRIO,  
18      resumed, having been previously  
19      duly sworn, was examined  
20      and testified further as follows:

21                 CONTINUED EXAMINATION BY MR. KEELY:

22                         (Defendant's Exhibit 22,  
23      Document dated August 21, 2009,  
24      Bates Numbers IS COP-65818 through  
25      IS COP-65821, was marked for